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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/253,117	02/19/1999	JOZSEF KIRALY	ASCI-006	5244

7590 12/08/2008
WAGNER MURABITO & HAO
TWO NORTH MARKET STREET
THIRD FLOOR
SAN JOSE, CA 95113

EXAMINER

BROWN, RUEBEN M

ART UNIT	PAPER NUMBER
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2424

MAIL DATE	DELIVERY MODE
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12/08/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/253,117	Applicant(s) KIRALY, JOZSEF	
	Examiner REUBEN M. BROWN	Art Unit 2424	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 July 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-7,9-14,16-23,25-34 and 36-49 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-7,9-14,16-23,25-34 and 36-49 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 2-4, 7, 11-14, 25-31, 36-41, 45-46 & 48-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rangan, (U.S. Pat # 5,583,994) in view of Ice, (U.S. Pat # 5,884,031).

Considering claim 45, the claimed system & method of communicating broadcast information; comprising;

‘receiving a list comprising a plurality of different content selections...sending a content selection to a transmission scheduler’, reads on Rangan, col. 3, lines 41-45.

‘after the content selection is sent and in response to instructions from transmission scheduler, creating a first communication link with a first user device that is receiving & rendering to a first user broadcast information representing the content selection’... ‘receiving the broadcast information to render from the first electronic device via the first communication link’, Rangan teaches that a program selected by a particular user is transmitted to the instant particular user; but does not meet the additional feature, see col. 5, lines 35-45. However, Ice (Fig. 1; Fig. 2; col. 2; col. 3, lines 11-45) provides a teaching of a system that schedules a transmission of content to a certain client, C1 such that while the instant client is rendering the content, the instant client is also scheduled to retransmit the instant content to the next instant client, C3 or C4. It would have been obvious for one ordinary skill in the art at the time the invention was made, to modify Rangan with the feature of a distribution relay as taught by Ice, for the known benefit of reducing the bandwidth needed by the server to transmit the content to the all of the plurality of clients that have requested the instant content.

‘while receiving the broadcast information and in response to instructions from the transmission scheduler, creating a second communication link between the electronic device and a different electronic device; and retransmitting the broadcast information to the different electronic device to render via the second communication link’, is also met by the disclosure of Ice, see col. 2, lines 4-67.

Considering claims 46 & 48-49, the claimed methods and systems for communicating broadcast information correspond with subject matter mentioned above in the rejection of claim 45, and are likewise treated.

Considering claims 2-4, 11-14, 25, 27-30 & 37-40, Rangan teaches that the content selected the clients is a pay per view video program, which meets the claimed audio, radio, visual, television program. Ice teaches a system and a method of transferring, communicating and broadcasting "files", over the Internet, (col. 1, lines 5-25 & col. 2, lines 35-62) which reads on the claimed computer program.

Considering claims 7, 31 & 41, the claimed subject matter reads on Ice which teaches that any number of replication levels may utilized, Fig. 1 & Fig. 2. Ice transmits the file to a third, fourth or fifth client.

Considering claims 26 & 36, the claimed subject matter of 'devices register with the transmission scheduler' reads on the disclosure in Ice that the clients have to request a connection to the server, in order to receive the replicated data, see col. 3, lines 1-30.

4. Claims 5-6, 9-10, 16-23, 32-34, 42-44 & 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rangan & Ice, further in view of Slaughter, (U.S. Pat # 6,014,669).

Considering claims 5-6, 9-10, 32-34 & 42-43 Rangan & Ice do not discuss any algorithm for overcoming failures in the network. However, Slaughter provides a teaching of CMM management server (that corresponds with the claimed transmission scheduler), which maintains a configuration database that outlines the connections between nodes in the network, see col. 3, lines 61-67 & col. 4, lines 14-58. Slaughter goes on to disclose that in the event of a node failure or a node leaves the cluster (which reads on the claimed 'electronic/user device shutting down'), that the CMM updates the configuration database, i.e., causes at least some nodes to communicate through different nodes, see col. 4, lines 5, lines 61-67; col. 6, lines 1-45. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify the combination of Rangan & Ice, with the feature of updating the configuration of the network when a node fails, for the advantage of more efficiently operating the network, thereby insuring consistent communication in the network, as taught by Slaughter, col. 2, lines 31-52.

Regarding claims 6, 10, 34 & 44, one of the ways that the CMM determines which nodes have failed is by receiving update/status messages, from the instant nodes, see col. 6, lines 15-55.

Considering claims 16-19, Rangan teaches that the content selected the clients is a pay per view video program, which meets the claimed audio, radio, visual, television program. Ice teaches a system and a method of transferring, communicating and broadcasting "files", over the Internet, (col. 1, lines 5-25 & col. 2, lines 35-62) which reads on the claimed computer program.

Considering claims 20-23, the server A, and clients C1 & C2, read on the source being a server or a user device. As for claim 22, the claimed subject matter reads on Ice which teaches that any number of replication levels may utilized, Fig. 1 & Fig. 2. Ice transmits the file to a third, fourth or fifth client.

Considering claim 47, the claimed method of communicating broadcast information, comprises elements that correspond with subject matter mentioned above in the rejection of claims 45 & 5, and is thus likewise treated.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

A) Otto Teaches status update message between nodes and a main node.

Art Unit: 2424

Any response to this action should be mailed to:

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or faxed to:

(571) 273-8300, (for formal communications intended for entry)

Or:

(571) 273-7290 (for informal or draft communications, please label
"PROPOSED" or "DRAFT")

Any inquiry concerning this communication or earlier communications from the examiner should be directed to REUBEN M. BROWN M. Brown whose telephone number is (571) 272-7290. The examiner can normally be reached on M-F(8:30-6:00), First Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Kelley can be reached on (571) 272-7331. The fax phone numbers for the organization where this application or proceeding is assigned is (571) 273-8300 for regular communications and After Final communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Annan Q Shang/
Primary Examiner, Art Unit 2424